

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

07 CV 6062 (GEL)

SCAN AM TRANSPORT A/S, Plaintiff, v. M/V GOLDEN CLOUD, etc., et al., Defendants.	DEFENDANT, EVERGREEN MARINE CORP.'S DECLARATION IN SUPPORT OF ITS MOTION TO DISMISS PLAINTIFF'S CLAIMS AS TIME BARRED
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PHOENIX TSAI declares that the following statement is true and correct under the penalty of perjury of the laws of the United States of America.

1. I am the Cargo Claim Adjuster of defendant, EVERGREEN MARINE CORP. (TAIWAN) LTD. (sued herein as EVERGREEN MARINE CORPORATION) (hereafter "EVERGREEN"). As such I have access to defendant's records and data covering shipments it carries worldwide. I am fully familiar with the facts and circumstances of this matter and I make this declaration on personal knowledge in support of EVERGREEN's motion to dismiss plaintiff's claims as time barred.

2. Attached to this declaration as are true and complete copies of the following documents:

EXHIBIT D: EVERGREEN Bill of Lading No. EISU148588806995 dated July 17, 2005 for carriage from Fuzhou, China to Vancouver, BC to Edmonton, AB on Voyage 115E of the defendant vessel GOLDEN CLOUD

EXHIBIT E: EVERGREEN Bill of Lading No. EISU148588807045 dated July 17, 2005 EVERGREEN For carriage from Fuzhou, China to Los Angeles, CA to Dallas, TX on Voyage 115E of the defendant vessel GOLDEN CLOUD

EXHIBIT F: Revised EVERGREEN Bill of Lading No. EISU148588806995 dated July 17, 2005 for carriage from Fuzhou, China to Aarhus, Denmark on Voyage 115E of the defendant vessel GOLDEN CLOUD

EXHIBIT G: Revised EVERGREEN Bill of Lading No. EISU148588807045 dated July 17, 2005 for carriage from Fuzhou, China to Vancouver, BC to Edmonton, AB on Voyage 115E of the defendant vessel GOLDEN CLOUD

EXHIBIT H: The reverse side terms and conditions for the Bills of Lading attached hereto as EXHIBITS D – E.

EXHIBIT I: Booking confirmations for plaintiff's cargo and sailing schedules for the MVs HATSU ENVOY and LT UNICA

3. EXHIBITS D and E are EVERGREEN bills of lading covering the shipments sued on by plaintiff. Those shipments consisted of shipper packed and sealed cargo shipping containers said by the shipper to contain furniture and other packages.

4. On July 18, 2005, during the voyage of the defendant vessel, GOLDEN CLOUD, from Fuzhou, China to its next port, Kaoshiung, it encountered heavy weather resulting in a number of containers being washed overboard.

5. EXHIBITS F and G are EVERGREEN bills of lading which are amended versions of the bills of lading attached hereto as EXHIBITS D and E and were issued after containers shown on the original bills were washed overboard,

6. The two containers of plaintiff's shipments which *were not* washed overboard was surveyed and repacked at Kaoshiung and arrived at its destination on the following dates:

Aarhus, Denmark: November 1, 2005

Edmonton, AB November 6, 2005

7. As to the portion of plaintiff's shipments which *was* washed overboard:

(a) Had they arrived at Kaoshiung, the containers that washed overboard would have been transshipped to different ships heading to the ports of

Vancouver and Los Angeles, respectively, and then carried inland to their respective final destinations of Edmonton, BC and Dallas, TX. *See, EVERGREEN's Mov. EXHIBITS D and E.*

- (b) Defendant's records show that the ships onto which they would have been transferred were the HATSU ENVOY [Voy. 0322-034E] and the LT UNICA [Voy. 0171-036E]. The former arrived at Los Angeles on July 31, 2005 and the latter arrived at Vancouver on August 7, 2005.
EVERGREEN's Mov. EXHIBIT I.
- (c) As to the HATSU ENVOY which arrived Los Angeles, defendant's records show that containers from the HATSU ENVOY at Los Angeles would have been delivered in Dallas by August 13, 2005 at the latest since the time for rail carriage from Los Angeles to Dallas was about 9 days.
- (d) As to the LT UNICA which arrived Vancouver, defendant's records show that containers from the LT UNICA at Vancouver would have been delivered in Edmonton by August 15, 2005 at the latest since the time for rail carriage from Vancouver to Edmonton was about 7 days.

8. EVERGREEN has not granted any extension of suit time to anyone in respect of these shipments or their carriage.

Dated: Taipei, Taiwan, December 6, 2007

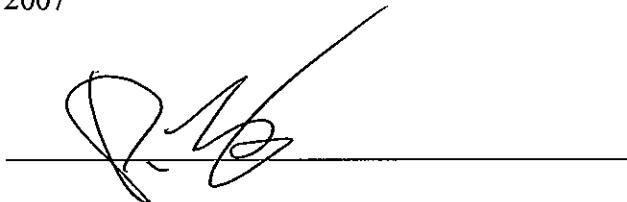


EXHIBIT D



EVERGREEN
EVERGREEN MARINE CORPORATION

BILL OF LADING
NOT NEGOTIABLE UNLESS CONSIDERED TO CONTAIN
ORIGINAL

SCANAM TRANSPORT
SHANGHAI REPRESENTATIVE OFFICE
SUITE NO. 07-09, 27F, UNION BUILDING
100 YAN AN ROAD SHANGHAI 200005,
P.R.CHINA *

(1) Document No.
14858806995

(6) Export Reference

J.B.WILLIS & CO., LTD
SUITE 1230 1188 WEST GEORGIA STREET
VANCOUVER, BC V6E 4A2-CANADA
TEL: 800-655-5257 FAX: 800-655-5258

EXHIBIT 7

SCANAMA TRANSPORT (USA), INC.
758 S.CENTRAL AVENUE, SUITE 200
ATLANTA, GA 30354
TEL: 1+404 768 1710 ***
CTC:MR.PETER HANSEN

(18) Buyer Name/Address

(19) Buyer Name/Address

FUZHOU, CHINA

GOLDEN CLOUD 115E
VANCOUVER, BC

FUZHOU, CHINA

EDMONTON, AB

Port of Discharge indicated by the Merchant

(20) Description of Goods

GATU8231303/40H/JA37862 GLDU7107964/40H/JA39528 2 X 40H	90 PKGS 4110.000XGS 66 PKGS 3366.000XGS	65.0000CBM 65.0000CBM	130.0000 CBM 7,476.000 KGS
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ACTONA

SOFA
FO#43430 #44061
156PKGS=156BDLS
THIS SHIPMENT DOES NOT CONTAIN ANY
SOLID WOOD PACKING MATERIALS
TEL:021 63739973 FAX:021 63739759
***FAX:+1 404 768 1712

"OCEAN FREIGHT COLLECT"
SHIPPER'S LOAD & COUNT
156 PACKAGES

TWO (2) CONTAINERS ONLY

BTSD 14858806995	Port FUZHOU, CHINA	Consignee CHINA GOLDEN SHIPPING AGENCY FUZHOU	DESTINATION
THRU (3) FUZHOU, CHINA JUL.17, 2005		Consignee Agent (12)	
JUL.17, 2005 GOLDEN CLOUD 115E FUZHOU, CHINA		17 JUL 2005	
BY AIR/SEA FCL/ FCL O/R EVERGREEN MARINE CORPORATION 7036			

EXHIBIT E

EXHIBIT F



EVERGREEN

EVERGREEN MARINE CORPORATION

**BILL OF LADING
NON-NEGOTIABLE**

<p>(2) Shipper/Expoiter (Complete Name and Address, Zip Code) SCANAM TRANSPORT SHANGHAI REPRESENTATIVE OFFICE SUITE NO.07-09, 27F, UNION BUILDING 100 YAN AN ROAD SHANGHAI 200005, P.R.CHINA * </p>		<p>(3) Consignee (complete name and address) (unless provided otherwise, a consignment is deemed to be to the order of shipper) SCANAM TRANSPORT A/S. ROLIGHEDSVÆJ 32 DK-8240 KIISKOV DENMARK CTC: PETER JENSEN T:45 87 41 6010 F:45 86 17 53 50 </p>	<p>(4) Nettier Party (complete name and address) SCANAM TRANSPORT A/S. ROLIGHEDSVÆJ 32 DK-8240 KIISKOV DENMARK CTC: PETER JENSEN T:45 87 41 6010 F:45 86 17 53 50 </p>	<p>(5) Document No.</p>
		<p>Shipper code</p>		<p>(6) Export References</p>
				<p>(7) Forwarding Agent (Name and Address, F.M.C No.) NIL</p>
				<p>(8) Point and Country of Origin (for the Merchant reference only)</p>
				<p>(9) Also Nettier Party (complete name and address)</p>
		<p>Nettier code</p>		
<p>(12) Pre-carriage by</p>		<p>(13) Place of Receipt / Date FUZHOU, CHINA</p>		
<p>(14) Ocean Vessel / Voy. No GOLDEN CLOUD 115E</p>		<p>(15) Port of Loading FUZHOU, CHINA</p>		
<p>(16) Port of Discharge AARHUS</p>		<p>(17) Place of Delivery AARHUS</p>		
<p>Particulars furnished by the Merchant</p>				
<p>(18) Container No. And Seal No. Marks & Nos. CONTAINER NO. / SEAL NO. TCKU9410666/ LTTAR77215/ ACTONA</p>	<p>(19) Quantity and Kind of Packages</p>	<p>(20) Description of Goods</p> <p>SOFA BO#43430 66PKGS-66BDLS THIS SHIPMENT DOES NOT CONTAIN ANY SOLID WOOD PACKING MATERIALS *TEL:021 53739973 FAX:021 53739759 ***FAX:+1 404 768 1712</p>		<p>(21) Measurement (M³) Gross Weight (KGS) 3,366.000 KGS 66.0000 CBM</p>
				<p>"OCEAN FREIGHT COLLECT" SHIPPER'S LOAD & COUNT 66 PACKAGES</p>
<p>(22) TOTAL NUMBER OF CONTAINERS OR PACKAGES SAY</p>	<p>TOTAL: 1X40H ONLY</p>			
<p>(24) FREIGHT & CHARGES</p>		<p>Revenue Tons</p>	<p>Rate</p>	<p>Per</p>
				<p>Prepaid</p>
				<p>Collect</p>
<p>(26) B/L NO. EISU 14858806995</p>		<p>(27) Number of Original B(s)/L THREE (3)</p>		<p>(28) Prepaid at</p>
				<p>(29) Collect at DESTINATION</p>
				<p>(30) Exchange Rate</p>
<p>(28) Place of B(s)/L Issue/Date FUZHOU, CHINA JUL.17, 2005</p>				<p>(31) Exchange Rate</p>
				<p>(32) Exchange Rate</p>
<p>(29) Service Type / Mode FCL/FCL O/O</p>		<p>(33) Laden on Board JUL.17, 2005</p>	<p>By AS AGENTS FOR THE CARRIER INSURANCE MARINE CORPORATION COPY NON-NEGOTIABLE</p>	

EXHIBIT G


EVERGREEN
 EVERGREEN MARINE CORPORATION

**BILL OF LADING
NON-NEGOTIABLE**

(2) Shipper/Exmitter (Complete Name and Address, Zip Code) SCANAM TRANSPORT SHANGHAI REPRESENTATIVE OFFICE SUITE NO. 07-19, 27F, UNION BUILDING 100 YAN AN ROAD SHANGHAI 200002, P.R.CHINA TEL:021 63739973*		(5) Document No. (6) Export References (7) Forwarding Agent (Name and Address, F.M.C No.) NIL				
(3) Consignee (Complete name and address of sales person/obtainer, a company or organization to whom the goods are to be delivered) J. B. ELLIS & CO., LTD SUITE 1230 1186 WEST GEORGIA STREET VANCOUVER, BC V6E 4A2-CANADA T:800-656-5257 F:800-655-5258		(8) Point and Country of Origin (for the Merchant) (reference only) (9) Also Notify Party (complete name and address)				
(4) Notify Party (complete name and address) SCANAM TRANSPORT (USA) INC. 768 S. CENTRAL AVENUE, SUITE 200 ATLANTA, GA 30354 CTC:MR PETER HANSEN T:1 404 768 1710 F:1 404 768 1712		(10) General Inland Routing / Export Instructions (for Merchant) (reference only)				
(12) Pre-carriage by (14) Ocean Vessel/Voy. No. GOLDEN CLOUD 115E		(13) Place of Receipt / Date FUZHOU, CHINA	(16) Port of Loading FUZHOU, CHINA			
(16) Port of Discharge VANCOUVER, BC		(17) Place of Delivery EDMONTON, AB				
Particulars furnished by the Merchant						
(18) Container No. And Seal No. Marks & Nos. CONTAINER NO./SEAL NO. TTNU9674692 / PB90488 /	(19) Quantity and Kind of Packages ACTONA	(20) Description of Goods SOFA PO#44095 75 PKGS= 75 BDLS *FAX:021 63739759 **FAX:+1 404 768 1712 THIS SHIPMENT DOES NOT CONTAIN ANY SOLID WOOD PACKING MATERIALS	(21) Measurement (M ³) Gross Weight (KGS) 3,645.000 KGS 65.0000 CBM			
"OCEAN FREIGHT COLLECT" SHIPPER'S LOAD & COUNT 73 PACKAGES						
(22) TOTAL NUMBER OF CONTAINERS OR PACKAGES SAY (IN WORDS)	TOTAL: 1X40H ONLY					
(24) FREIGHT & CHARGES		Revenue Tons	Rate	For	Prepaid	Collect
(25) B/L NO. BISU 148588807045		(27) Number of Origin B/L No. THREE (3)		(28) Prepaid at		(30) Collected at DESTINATION
(26) Service Type / Mode FCL/FCL O/R		(29) Place of B/L Issue Date FUZHOU, CHINA JUL.17, 2005		(31) Exchange Rate 1 USD = 1.1744 CAD		(32) Exchange Rate
(33) Laden on Board JUL.17, 2005 GOLDEN CLOUD 115E FUZHOU, CHINA						

By
 AS AGENTS FOR THE CARRIER EVERGREEN MARINE CORPORATION
 COPY NON-NEGOTIABLE

EXHIBIT H

EXHIBIT I

TO:SMART POINT LTD. FUZHOU REPRESENTATIVE OFFICE
R.I.C :YE

***** 装载通知 / REVISE : 001 DATE:2005/07/11 13:45:00*****
 BOOKING NUMBER(订舱号码):14858806995
 VESSEL/VOYAGE (船名/航次):GOLDEN CLOUD 115E
 CARRIER(承运人) : EVERGREEN MARINE CORPORATION
 PLACE OF RECEIPT (收货地):FUZHOU, CHINA
 PORT OF LOADING (装货港):FUZHOU, CHINA
 装货时间 :2005/07/16 17:30
 装单截止时间 :2005/07/15 17:30
 ETA DATE :2005/07/17 00:00
 T/S PORT :KAOHSIUNG
 EST. CONNECT VSL/VOY:LT UNICA 0171-036E
 ECA DATE :2005/07/20 00:00
 PORT OF DISCHARGE (卸货港):VANCOUVER, BC
 PLACE OF DELIVERY (交货地):EDMONTON, AB
 CUSTOMER(订舱客户) :SMART POINT LTD. FUZHOU REPRESENTATIVE OFFICE
 SHIPPER (发货人):SCANAM TRANSPORT SHANGHAI REPRESENTATIVE OFFICE
 SVC TYPE/SVC MODE (运送方式/运送型态):{FCL/FCL}/{PORT/RAMP}
 PRE-CARRIAGE :MERCHANT HAULAGE
 COMMODITY (货物品名):GENERAL CARGO
 发单地 :FUZHOU, CHINA
 QTY_TYPE{箱数箱型} GWT(货物毛重) 危险品等级/联合国编码TEMPERATURE(温度)
 =====
 3 /40' HI-CUBE 4,284.00±12,600 (NON-HAZARDOUS)
 EMPTY PICK UP AT :福州港通通集装箱有限公司
 空箱提领处 :福州馬尾經濟技術開發區新港區4號門
 FULL RETURN TO :福州青州集装箱有限公司
 重箱返还处 :福建福州馬尾羅星路113号
 协约号 :21033
 PAYMENT TERM :COLLECT
 REMARKS(备注) :

1. 请务必在发单前将提单样本核对后回传至我司，以利发单。
2. 美国线客户请在母船开航48小时前确定B/L正确性。

ON BEHALF OF

福州五四路71号国贸广场29层D单元
 BOOKING SECTION
 林步英
 TEL:86-0591-7538112 # 143
 FAX:86-0591-7547114

BOOKING NO. :14858806995 VSL/VOY :GOLDEN CLOUD 115E

Operation -> Ship Schedules -> **Ship Schedules Detail**

The Sailing Schedule for from 20050701 to 20050831 as follows :

LINE ID	VESSEL	OPERATOR	OWNER	VOY 1.	VOY 2.	PORT	ETA	ETD	REMARK
WAE	LUNC	LT	LT		0171-036E	EGPSD	20050705	20050706	CHG ROTATION;RDM-THP-HBG-ZEE;OMIT LHV;
WAE	LUNC	LT	LT		0171-036E	LKCMB	20050713	20050713	CHG ROTATION;RDM-THP-HBG-ZEE;OMIT LHV;
WAE	LUNC	LT	LT		0171-036E	MYPTP	20050716	20050717	CHG ROTATION;RDM-THP-HBG-ZEE;OMIT LHV;
WAE	LUNC	LT	LT		0171-036E	TWKSG	20050720	20050722	CHG ROTATION;RDM-THP-HBG-ZEE;OMIT LHV;
WAE	LUNC	LT	LT		0171-036E	CNYYT	20050723	20050723	CHG ROTATION;RDM-THP-HBG-ZEE;OMIT LHV;
WAE	LUNC	LT	LT		0171-036E	HKHKG	20050723	20050724	CHG ROTATION;RDM-THP-HBG-ZEE;OMIT LHV;
WAE	LUNC	LT	LT		0171-036E	JPOSK	20050727	20050727	CHG ROTATION;RDM-THP-HBG-ZEE;OMIT LHV;
WAE	LUNC	LT	LT		0171-036E	JPTYO	20050728	20050728	CHG ROTATION;RDM-THP-HBG-ZEE;OMIT LHV;
WAE	LUNC	LT	LT	0183-037W		USTCM	20050805	20050807	OMIT LHV;
WAE	LUNC	LT	LT		0171-036E	USTCM	20050805	20050807	CHG ROTATION;RDM-THP-HBG-ZEE;OMIT LHV;
WAE	LUNC	LT	LT	0183-037W	0171-036E	CAVCR	20050807	20050808	OMIT LHV;
WAE	LUNC	LT	LT	0183-037W		JPTYO	20050817	20050817	OMIT LHV;
WAE	LUNC	LT	LT	0183-037W		JPOSK	20050818	20050819	OMIT LHV;
WAE	LUNC	LT	LT	0183-037W		TWKSG	20050821	20050822	OMIT LHV;
WAE	LUNC	LT	LT	0183-037W		HKHKG	20050823	20050824	OMIT LHV;
WAE	LUNC	LT	LT	0183-037W		CNYYT	20050824	20050825	OMIT LHV;
				0183-					

TO:SMART POINT LTD. FUZHOU REPRESENTATIVE OFFICE
P.I.C :YE

BOOKING NUMBER(订舱号):148588807045 / REVISE : 000 DATE:2005/07/11 15:34:16*****

VESSEL/VOYAGE (船名/航次):GOLDEN CLOUD 115E

CARRIER(承运人):EVERGREEN MARINE CORPORATION

PLACE OF RECEIPT (收货地):FUZHOU, CHINA

PORT OF LOADING (装货港):FUZHOU, CHINA

截关时间:2005/07/16 17:30

舱单截止时间:2005/07/15 17:30

ETA DATE:2005/07/17 00:00

T/S PORT:KAOHSIUNG

EST. CONNECT VSL/VOY:HATSU ENVOY 0322-034E

ETA DATE:2005/07/18 00:00

STOWAGE CODE :XLAG

PORT OF DISCHARGE (卸货港):LOS ANGELES, CA

PLACE OF DELIVERY (交货地):DALLAS, TX

CUSTOMER(订舱客户):SMART POINT LTD. FUZHOU REPRESENTATIVE OFFICE

SHIPPER(发货人):SCANAM TRANSPORT SHANGHAI REPRESENTATIVE OFFICE

SVC TYPE/SVC MODE (送运方式/送运型态):(FCL/FCL)/(PORT/DOOR)

PRE-CARRIAGE :MERCHANT HAULAGE

COMMODITY (货物品名):SOFA

发单地:FUZHOU, CHINA

QTY_TYPE(箱数箱型) GWT(货物毛重) 危险品等级/联合国编码TEMPERATURE(温度)

5 /40' HI-CUBE 4,284.00±21,000 (NON-HAZARDOUS)

EMPTY PICK UP AT:福州港通集装箱有限公司

空箱提领处:福州馬尾經濟技術開發區新港區4號門

FULL RETURN TO:福州青州集装箱有限公司

重箱返还处:福建福州馬尾羅基路113號

协约号:21033

PAYMENT TERM:COLLECT

REMARKS(备注):

1. 请务必在发单前将提单样本核对后回传至我司,以利发单。
2. 美国线客户请在每船开航48小时之前确定B/L正确性。

ON BEHALF OF

福州五四路71号国贸广场29层D单元

BOOKING SECTION

蒋少敏

TEL:86-0591-7538112 # 132

FAX:86-0591-7547114

BOOKING NO.:148588807045 VSL/VOY:GOLDEN CLOUD 115E

Operation -> Ship Schedules -> **Ship Schedules Detail**

The Sailing Schedule for from 20050701 to 20050831 as follows :

LINE ID	VESSEL	OPERATOR	OWNER	VOY 1.	VOY 2.	PORT	ETA	ETD	REMARK
TPS	EOVY	HML	HAL		0317-033W	TWKSG	20050712	20050714	
TPS	EOVY	HML	HAL	0322-034E	0317-033W	CNYYT	20050715	20050716	
TPS	EOVY	HML	HAL	0322-034E	0317-033W	HKHKG	20050716	20050717	
TPS	EOVY	HML	HAL	0322-034E		TWKSG	20050718	20050721	
TPS	EOVY	HML	HAL	0322-034E	0322-034W	USLAX	20050731	20050802	
TPS	EOVY	HML	HAL	0322-034E	0322-034W	USTCM	20050804	20050806	
TPS	EOVY	HML	HAL		0322-034W	TWKSG	20050817	20050818	
TPS	EOVY	HML	HAL	0327-035E	0322-034W	CNYYT	20050819	20050820	
TPS	EOVY	HML	HAL	0327-035E	0322-034W	HKHKG	20050820	20050821	
TPS	EOVY	HML	HAL	0327-035E		TWKSG	20050821	20050823	

 Back